



Kurt E. Floren
Agricultural Commissioner/
Director of Weights and Measures

COUNTY OF LOS ANGELES

*Department of
Agricultural Commissioner/
Weights and Measures*

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Robert G. Atkins
Chief Deputy

July 24, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF A MEMORANDUM OF UNDERSTANDING WITH THE CALIFORNIA
DEPARTMENT OF PESTICIDE REGULATION PERTAINING TO THE
ENFORCEMENT OF STRUCTURAL FUMIGATIONS
(ALL DISTRICTS) (3-VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Agricultural Commissioner/Weights and Measures Director to sign and return the attached Memorandum of Understanding (MOU) with the California Department of Pesticide Regulation (DPR), which reimburses the cost of the Structural Fumigation Enforcement Program (SFEP) by the Los Angeles County Department of Agricultural Commissioner/Weights and Measures (ACWM).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Specific, highly toxic fumigants (Vikane and Methyl Bromide) are regulated by Titles 3 and 16 of the California Code of Regulations, the California Food and Agricultural Code, and the Business and Professions Code.

The SFEP regulates the structural fumigation industry to ensure compliance with these regulations. Each year, the ACWM enforces these regulations by inspecting approximately 2,000 fumigations. It is estimated that 46,000 properties are fumigated annually throughout Los Angeles County by 120 companies. The Department inspects these companies to ensure compliance with all regulations to protect the public, industry workers, and the environment.

The ACWM has negotiated the attached MOU with DPR to enforce these regulations countywide. This MOU funds the Agricultural Commissioner/Weights and Measures Department to inspect fumigated properties.

The Board has approved similar contracts with DPR for enforcement of pesticide regulations since 1993.

Implementation of Strategic Plan Goals

This agreement supports the County's Strategic Plan Goal #1 of Service Excellence. The SFEP's goal is to ensure that structural fumigations are conducted safely in compliance with all laws and regulations. Effective review, control, and enforcement fulfill the Department's mission to protect workers, public health, and the environment from improper and illegal use of fumigants.

FISCAL IMPACT/FINANCING

This program is 100% revenue offset and there is no effect on the Department's net County cost.

The fumigation companies pay a \$5.00 per fumigation fee directly to ACWM for each fumigation performed in Los Angeles County. An average of 46,000 fumigations is performed at \$5.00 each, recovering \$230,000 in revenue for each fiscal year to continue the operation of the SFEP.

FACTS AND PROVISIONS/ LEGAL REQUIREMENTS

The ACWM is required to perform structural fumigation inspections, as prescribed in Sections 8698-8698.6 of the Business and Profession's Code. Newly passed legislation, Assembly Bill 230, which eliminates the sunset on this MOU, went into effect June 12, 2006.

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IMPACT ON CURRENT SERVICES

These fees support three Inspectors who inspect structures under the SFEP for Los Angeles County. The department could lose these positions, if not approved. The SFEP ensures the safety of the workers and residents when these deadly gases are used.

CONCLUSION

When approved, please return to this Department three (3) signed copies along with the minute order authorizing the Agricultural Commissioner to sign. The department will forward the documents to the California Department of Pesticide Regulation.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Kurt E. Floren', with a long horizontal line extending to the right.

Kurt E. Floren
Agricultural Commissioner/
Director of Weights & Measures

KEF:RGA:RKI:GDC:el

Attachment

c: Chief Administrative Officer
County Counsel

MEMORANDUM OF UNDERSTANDING
DPR No. 06-0065M

STRUCTURAL FUMIGATION ENFORCEMENT PROGRAM
Between
LOS ANGELES COUNTY AGRICULTURAL COMMISSIONER
And
THE CALIFORNIA, DEPARTMENT OF PESTICIDE REGULATION

1. BACKGROUND

Approximately 46,000 structures are fumigated annually using sulfuryl fluoride or methyl bromide in Los Angeles County by registered Branch 1 structural pest control companies. If used improperly, the potential for injury, or even death, is present for both of these fumigants, which carry the signal word, "Danger."

Recognizing the potential for misuse, the Structural Fumigation Enforcement Program (Program) was created to fund an increased level of structural pesticide enforcement in Los Angeles County by collecting a five-dollar (\$5.00) fee from each registered Branch 1 structural pest control company for each structure fumigated within Los Angeles County. Business and Professions Code (B&P Code) Division 3, Chapter 14.5 (commencing with section 8698) authorizes the Program.

2. PURPOSE OF THE MEMORANDUM OF UNDERSTANDING

The purpose of this Memorandum of Understanding (MOU) between the Department of Pesticide Regulation (DPR) and the Los Angeles County Agricultural Commissioner (LA CAC) is to establish a framework by which DPR and LA CAC shall jointly act to enforce the provisions of the Program.

3. PRINCIPLES OF THE MEMORANDUM OF UNDERSTANDING

This MOU begins July 1, 2006, with no sunset clause, and is valid only if signed by all parties.

This agreement MOU may be amended or cancelled by written mutual consent, upon thirty (30) days written notice by either party.

4. LOS ANGELES COUNTY AGRICULTURAL COMMISSIONER RESPONSIBILITIES

- A. The LA CAC shall identify "Structural Fumigation Enforcement Program" on the items listed below in items 1) through 4). These records may be maintained as separate files.
- 1) Structural - Branch 1 Use Monitoring Inspections (PR-ENF-107, Est. 3/03);
 - 2) Structural PCB - Pest Control Records Inspections (PR-ENF-110, Est. 3/03);
 - 3) Investigations conducted under the Structural Fumigation Enforcement Program; and,
 - 4) Violation Notice(s) issued to any registered Branch 1 structural pest control company, or structural pest control licensee resulting from Program activities. When appropriate, employees responsible for violations shall be identified within the violation notice.
- B. These items shall be readily available for on-site inspection by DPR staff. The records shall be maintained for two fiscal years.
- C. The LA CAC shall submit to DPR a quarterly report within forty-five (45) days of the end of each fiscal year quarter detailing the activities of the Program during that quarter to:

Department of Pesticide Regulation
Enforcement Branch – MS 3A
Attn: Structural Coordinator
1001 I Street
Sacramento, CA 95814

- D. The report shall indicate the following for each quarter:

The number of inspections conducted under the "Structural Fumigation Enforcement Program", and those conducted as part of the general pesticide regulatory program and recorded on the Pesticide Regulatory Monthly Activity Report (PRAMR). The report shall record each inspection type, list above in paragraph A. 1) & 2), separately under the respective programs.

E. The report shall indicate the following for each quarter:

- 1) The number of Violation Notices issued to registered structural pest control companies or structural licensees under the Structural Fumigation Enforcement Program.
- 2) The number of administrative civil penalty actions resulting from the Structural Fumigation Enforcement Program.
- 3) The number of cases referred to the Structural Pest Control Board under the Structural Fumigation Enforcement Program.
- 4) Documentation of fees collected from registered Branch 1 pest control companies.
- 5) All expenses associated with the Structural Fumigation Enforcement Program. To include: Positions, # hours/position, pay rate/position, total amount; employee benefits, overhead*, employee mileage, and total expenses.

Note: *Overhead includes expenses for services or functions performed by other administrative personnel, or departments that are apportioned back among all budgeted programs. Actual costs must be identified for reimbursement of overhead charges in excess of thirty-five (35%) percent.

- F. The LA CAC shall collect five dollars (\$5.00) from registered Branch 1 pest control companies for each fumigation performed in Los Angeles County, pursuant to the requirements of section 8698.1, Division 3, of the B&P Code. Pursuant to B&P Code section 8698, fees shall be paid directly to the county and used for the sole purpose of funding enforcement activities directly related to the Program.
- G. The LA CAC shall provide to DPR, upon request, copies of any documents, notices to registered structural pest control companies, notices to licensees, or other correspondence related to this Program.

5. DEPARTMENT OF PESTICIDE REGULATION RESPONSIBILITIES

- A. DPR shall provide oversight and training to LA CAC personnel to assist them in carrying out their enforcement duties. Since DPR does not receive any funding for the Program, oversight and training will be provided to the extent that no additional costs are placed upon the DPR pesticide regulatory enforcement program.
- B. DPR shall audit, as necessary, LA CAC's inspections, investigations and Violation Notices conducted or issued under the "Structural Fumigation Enforcement Program" to ensure the LA CAC is meeting the obligations imposed by B&P Code Division 3, Chapter 14.5

6. AUTHORIZED SIGNATURES

We, the undersigned, will comply with the terms and conditions of this Memorandum of Understanding.

Kurt E. Floren
Los Angeles County Agricultural Commissioner

Date

Jerry Campbell, Assistant Director, PMEMEL
California Department of Pesticide Regulation

Date

APPROVED AS TO FORM
RAYMOND G FORTNER, JR., County Counsel

By *Maya Zel*
Deputy